

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RUDOLPH GEORGE STANKO,

Defendant.

**8:05CR93**

**ORDER**

This matter is before the court on the motions to quash subpoenas by Judges James Orr and Russell Harford. Filing No. 555. Mr. Stanko has issued subpoenas on both of these judges summoning them to testify in his violation of supervised release hearing scheduled for August 21, 2013. Judges Orr and Harford contend that Mr. Stanko has made no showing of relevance or materiality as to these two potential witnesses.

The court agrees with Judges Orr and Harford. Pursuant to Fed. R. Crim. P. 17(c)(2) and 45, NeCrimR 17.4, the court may quash a subpoena if it is oppressive or unreasonable. The court first notes that Judges Orr and Hartford are a great distance from Omaha. Judge Harford presides in Sheridan County and Judge Orr presides in Cherry County, Nebraska. Second, the judges cannot testify about matters before them. Judges generally cannot be required to testify regarding their mental processes or the reasons they made decisions involving official acts. [\*United States v. Morgan\*, 313 U.S. 409 \(1941\)](#). It appears that Mr. Stanko is summoning these judges based on the cases before them. In addition, Mr. Stanko has shown no reason why there is a need

for either judge to testify or why their testimony would be relevant to the issues of Mr. Stanko's noncompliance. Accordingly, the court will grant the motion to quash.

THEREFORE, IT IS ORDERED that the motion to quash, Filing No. 555, is granted.

Dated this 12th day of August, 2013.

BY THE COURT:

s/ Joseph F. Bataillon  
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United States District Judge